

EXCERPTS FROM THE DEPOSITION OF
JOSEPH FATH
TAKEN JULY 12, 2021

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4 -----)
5 IN RE TESLA, INC.
6 SECURITIES LITIGATION Civil Action No.
7 3:18:cv-04865-EMC
8 -----)

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12 REMOTE DEPOSITION OF JOSEPH FATH

13 New York, New York

14 July 12, 2021
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24 Reported by:
Linda Salzman
25 JOB NO. 196636

July 12, 2021

12:15 p.m.

Remote deposition of JOSEPH

FATH, the witness herein, held

remotely before Linda Salzman, a

Notary Public of the State of New

York.

A P P E A R A N C E S:

LEVI & KORSINSKY

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BY: NICHOLAS PORRITT, ESQ.

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BY: PATRICK GIBBS, ESQ.

BINGXIN WU, ESQ.

T. ROW PRICE

Attorneys for the Witness

100 East Pratt Street

Baltimore, Maryland 21202

BY: CHRIS SHAHEEN, ESQ.

Also Present:

LEM LATTIMER, Videographer

1 STIPULATIONS

2 IT IS HEREBY STIPULATED AND
3 AGREED by and among counsel for the
4 respective parties hereto, that the
5 sealing and certification of the
6 within deposition shall be and the
7 same are hereby waived;

8 IT IS FURTHER STIPULATED AND
9 AGREED all objections, except as to
10 the form of the question, shall be
11 reserved to the time of the trial;

12 IT IS FURTHER STIPULATED AND
13 AGREED that the within deposition may
14 be signed before any Notary Public
15 with the same force and effect as if
16 signed and sworn to before the Court.

1 THE VIDEOGRAPHER: Good morning,
2 Counselors. My name is Lem Lattimer.
3 I am a legal videographer in
4 association with TSG Reporting, Inc.

5 Due to the severity of COVID-19
6 and following the practice of social
7 distancing, I will not be in the same
8 room with the witness. Instead, I
9 will record this videotaped deposition
10 remotely. The reporter, Linda
11 Salzman, also will not be in the same
12 room and will swear the witness in
13 remotely.

14 Do all parties stipulate to this
15 video recording and remote swearing
16 and that it will be admissible in the
17 courtroom as if it had been taken
18 following Rule 30 of the Federal Rules
19 of Civil Procedures and the state's
20 rules where this case is pending?

21 Counselors, I need you to
22 stipulate.

23 MR. PORRITT: Oh, yes. So
24 stipulate.

25 MR. GIBBS: So stipulated.

1 THE VIDEOGRAPHER: Thank you.

2 This is the start of media labeled No.
3 1 of the video-recorded deposition of
4 Joseph Fath in the matter of In re:
5 Tesla, Inc. Securities Litigation on
6 July 12, 2021, at approximately 12:16
7 p.m.

8 All appearances are noted on the
9 record. Will the court reporter
10 please swear in the witness.

11 J O S E P H F A T H,

12 called as a witness, having been duly
13 sworn by a Notary Public, was examined
14 and testified as follows:

15 EXAMINATION BY

16 MR. PORRITT:

17 Q. Good afternoon, Mr. Fath. My
18 name is Nicholas Porritt. I'm with the
19 law firm of Levi & Korsinsky representing
20 the plaintiff Glen Littleton and the class
21 in this action.

22 Could you start off by just
23 stating your full name and position at T.
24 Rowe Price?

25 A. Joseph Fath, F-A-T-H. I run the

1 growth stock fund here, and I'm
2 technically a vice president.

3 Q. And how long have you worked at
4 T. Rowe Price?

5 A. Since the intern in 2001. I
6 started full-time in August of 2002, so
7 going on 19 years.

8 Q. And you said you are the
9 portfolio manager for the U.S. Growth
10 Stock Equity Strategy Fund; is that
11 correct?

12 A. That's correct.

13 Q. Okay. Could you briefly
14 describe your responsibilities as a
15 portfolio manager for that fund.

16 A. Yes. I'm the lead portfolio
17 manager. Product now is about \$130
18 billion. I run retail money in the United
19 States, as well as I have separate account
20 clients, a number of different
21 institutions.

22 Our strategy is focused on large
23 cap U.S. growth equities, but we also
24 invest internationally. It's typically
25 companies over \$10 billion in market cap.

1 the witness a document previously
2 marked as Exhibit 13.

3 Q. Do you see that, Mr. Fath?

4 A. I do.

5 Q. Do you recognize this document?

6 A. I recognize that Tweet, yes.

7 Q. Okay. Do you recall when you
8 first saw that Tweet?

9 A. Again, it was a frenzy that day,
10 but I see it's August 7th. I remember
11 seeing it. But, again, I was on vacation.
12 I saw it sometime during the day.

13 Q. Do you recall reading the
14 statement there on the top of -- beginning
15 of the Tweet in Exhibit 13, "Investor
16 support is confirmed"?

17 A. Absolutely.

18 Q. Do you recall what your reaction
19 was to seeing those words?

20 A. Yes. I was shocked because I
21 said to myself, well, I know it's not us
22 because we haven't spoken to them.

23 Q. What was your understanding of
24 the meaning of the words "investor support
25 is confirmed"?

1 have an interest to do that if that came
2 to bear.

3 Q. And is that something you had
4 considered before?

5 A. Yes. We've been private
6 investors in our public mutual funds for
7 many years. I believe beginning back in
8 2007, we started private investing, as
9 well as public investing.

10 Q. Is that something you considered
11 before with regard to Tesla?

12 A. No, it was not.

13 Q. Looking at -- back to Exhibit 44
14 the second sentence, you write, "I know
15 some separate accounts would be disallowed
16 given charter and I have Bonnie working up
17 those numbers now."

18 Do you see that?

19 A. I do.

20 Q. What do you mean when you say,
21 "would be disallowed given charter"?

22 A. Some separate accounts have
23 mandates on their accounts that do not
24 allow privates, and so those accounts
25 aren't able to participate in a private

1 transaction.

2 So if we own Tesla in their
3 accounts publicly, we would have to
4 dispose of those shares upon a takeout
5 because those accounts would not be able
6 to go along privately if the company was
7 to go private.

8 Q. You next write, "Company is
9 reaching out to the large holders now.
10 Good chance I get a call from Elon
11 directly later in the week."

12 Do you see that?

13 A. I do.

14 Q. As of this time August 18, 2018,
15 11:11 a.m., had you spoken to Elon Musk
16 about this potential transaction?

17 A. I had not.

18 Q. Do you know if anyone from T.
19 Rowe Price had spoken to Elon Musk
20 directly about this transaction?

21 A. I know they did not. There's
22 emails that you have in your other
23 documentation.

24 His chief of staff, his name was
25 Sam -- I can't recall his last name --

1 reached out to me when I was in Nevis
2 after the initial Tweets, and I knew right
3 away that I needed to contact our head of
4 equities, Eric Veiel, as well as our
5 in-house counsel, which I did.

6 And I stepped back completely
7 from them in case I did get this call and
8 we would have needed to be restricted. So
9 I turned it over to them to deal with it
10 directly, and they handled all
11 conversations from there.

12 So I know once that transpired,
13 no one else in the organization, other
14 than Eric and/or our in-house counsel,
15 would have spoken to the company directly.
16 I never spoke with Elon after that Tweet.

17 Q. Okay. In this sentence here on
18 Exhibit 44, you say, "Companies reaching
19 out to their large holders now."

20 Do you see that?

21 A. Yes.

22 Q. What's your basis for that
23 statement?

24 A. IR, I believe, again, it was
25 Martin Viecha and may have been Eric Chew.

1 So he was willing -- if it were
2 to go private, he would be willing to take
3 exposure to only 50 basis points. Given
4 we all factor in illiquid securities and
5 how much exposure we have there, illiquid
6 securities clearly have more risk than
7 liquid securities, given our inability to
8 sell.

9 Q. So would Mr. Spencer's fund
10 maintain its position in Tesla as a
11 private company?

12 A. It would, but a smaller position
13 than he had as a public company.

14 Q. So he would reduce his holding?

15 A. Correct.

16 MR. PORRITT: Kathy, would you
17 bring over 16, Bates-stamp 16.

18 MS. VALDIVIESO: Yes, Nick. 16
19 is uploaded. It's there.

20 (Fath Exhibit 46, Email, Bates
21 No. TRP_000016, marked for
22 identification, as of this date.)

23 MR. PORRITT: So I've placed
24 before the witness a document marked
25 as Exhibit 46.

1 transaction to get your thoughts and
2 feedback."

3 Do you see that?

4 A. I do.

5 Q. Was this the first contact you
6 received from anyone at Tesla regarding
7 the go-private transaction?

8 A. No. The earlier discussions
9 that we spoke about -- or that we just
10 discussed before this was with the
11 investor relations folks, so again, Martin
12 Viecha and Eric Chew.

13 Q. That was a bad question. I
14 apologize.

15 Was this the first contact you
16 received from Elon Musk or someone acting
17 on his behalf regarding the go-private
18 transaction?

19 A. Yes.

20 Q. And then you respond thanking
21 him for the email. And then saying, "I am
22 cc'ing Eric Veiel here who is our head of
23 equities as well as our analyst (Joel
24 Grant) and one of our other PMs (Josh
25 Spencer), who is a large holder."

C E R T I F I C A T E

STATE OF NEW YORK)

: ss

COUNTY OF NEW YORK)

I, Linda Salzman, a Notary
Public within and for the State of
New York, do hereby certify:

That JOSEPH FATH, the witness
whose deposition is hereinbefore set
forth, was duly sworn by me and that
such deposition is a true record of
the testimony given by the witness.

I further certify that I am not
related to any of the parties to
this action by blood or marriage,
and that I am in no way interested
in the outcome of this matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 18th day
of July, 2021.



Linda Salzman